IN THE MATTER OF THE CANADIAN TOURISM INSTITUTE,
AND IN THE MATTER OF STUDENTS ENROLLED IN THE COURSE IN
INTRODUCTION TO HOSPITALITY AND TOURISM MANAGEMENT IN 1986-87

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REPORT

OFFICE OF THE OMBUDSMAN

HALIFAX, NOVA SCOTIA

22 MARCH 1988

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Part I

A. Introduction

1. The Ombudsman has investigated matters related to the Canadian Tourism Institute and to the interests of the students enrolled in 1986-87 in the institute's course Introduction to Hospitality and Tourism Management at the request

i) of Mr. J. A. Denton, (October 1987) formerly director of Canadian Tourism Institute, who claimed to be aggrieved by the process followed by the Department of Vocational and Technical Training which led to decisions of the then Minister, the Honourable Ronald C. Giffin, announced in a press release of July 17, 1987 and thereafter conveyed by letter to Mr. Denton, that the course would not be registered for 1987-88 and that "My immediate concern is the students who, in effect, did not get their money's worth out of the program. I have therefore requested the Institute to satisfy the department that it has made satisfactory arrangements with its students in regard to tuition refunds."

ii) of or on behalf of individual students, (November 1987 - January 1988) who claimed to be aggrieved by the outcome of a review process instituted by Canadian Tourism Institute as urged by the department which resulted in a recommendation that none of the former students whose claims were considered for a refund of fees paid to C.T.I. for 1986-87 were entitled to a refund; and

iii) of the Honourable Edmund Morris, Minister of Advanced Education and Job Training, (January 1988) who requested that the circumstances relating to the C.T.I. be reviewed in the context of concerns of former students which remain unresolved.

2. In the process of this investigation the Ombudsman has had the co-operation of Mr. Denton and of the public servants and the Ministers involved in the Department of Advanced Education and Job Training and of the former Department of Vocational and Technical Training, where responsibility for registration of trade schools and their programs resides. At this stage no effort has been made to contact all former students though information has been obtained from each one who has written or called the office of the Ombudsman and representations have been received from some parents on behalf of former students.

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3. This report is completed in two parts:
Part I - Sections A - Introduction, and B - The Background - a summary of events and perceptions, and
Part II - Section C - Conclusions and recommendations.

Part I was circulated in draft form to Mr. Denton and to the Ministers concerned and officers of the Department of Advanced Education and Job Training so that they could comment on the background as described by the draft and suggest clarification of any passage which did not appear to them to accurately describe the situation as it developed. Amendments were then made in Part I in light of the comments received. Thereafter Part II has been completed, and in accordance with section 20 of the Ombudsman Act is provided to the Minister and the Deputy Minister of Advanced Education and Job Training. In accordance with section 21 of the Act, information will also be provided in due course to the other parties concerned.

B. The Background, a Summary of Events and Perceptions

1. Registration of the Canadian Tourism Institute and the course in Introduction to Hospitality and Tourism Management.

4. Early in April 1986 Canadian Tourism Institute applied for registration, in accord with the Trade Schools Regulation Act and regulations thereunder, to the Department of Vocational and Technical Training, seeking registration of a course called Hotel/Motel Management. Particulars required by the department were provided, including a brochure proposed to be issued about the course and a description of the course proposed as Hotel/Motel Management which included a list of principal topics with hours assigned to each, a total of 1260 hours, to be offered over 42 weeks between the hours of 9:00 a.m. to 4:00 p.m. daily and a statement "Graduates are placed in the work force for a period of two weeks at the end of the course (80 hours)". The description also included a statement of objectives, the subtopics within each of the principal topics, the books and their prices, statements on tests and examinations, on academic pre-requisites, on fees ($2895.00) and book fees ($200.00).

5. The application form for a Certificate of Trade School Registration (departmental Form C) was subsequently completed (April 16, 1986) for the C.T.I. including two courses, in Travel Counselling, for Home Study, and in Hotel/Motel Management, the latter a 42 week "resident" course, with a projected enrollment of 50 students, and including as instructor a named individual.

6. In the interim between filing of the original documents and the application form, the officer concerned within the department for review of the application wrote an intra-departmental memorandum recording some reservations about the proposed course. These reservations included the opinion that the course as described was not a management program, that it might better be identified as "a front desk personnel program", that an existing two-year vocational school program was designed for management trainees, that work experience for students might better be incorporated in the middle of the program rather than at the end, that the description should specify the number of tests and examinations to be given, and that imprecise academic pre-requisites might result in graduates without high school certificates finding it difficult to progress in careers with larger companies.

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7. There were discussions between representatives of C.T.I. and the department and some modification of the original details proposed were apparently agreed upon. The original brochure and the description of the course filed in early April have handwritten notations, respectively that changes would be made in the name of the course to include "Introduction" and to change the brochure reference to careers available to graduates, and that the name of the proposed course was changed to Introduction to Hospitality and Tourism Management. A notation similar to the last is included, with reference to "Phone call from Mr. J. Denton" on the application for a Certificate of Trade School Registration (Form C) and the name for the course, originally "Hotel/Motel Management", has a line drawn through it. In the brochure finally produced for the course, which was circulated to and relied upon by students, the cover sheet describes it as "Introduction to Hospitality and Tourism Management", and the text on the following pages refers to the program as "Hospitality and Tourism Management" leading to a diploma in Hospitality Management. Representatives of C.T.I. affirm that the text of the brochure was changed in all respects requested by the department and that before it was offered to prospective students the brochure was approved by the department.

8. Subsequently on 13 May 1986, the same officer in the department who had earlier recorded reservations about the proposed course initiated a recommendation to the Minister that he approve registration of C.T.I. and registration of its course Introduction to Hospitality and Tourism Management with a named individual as instructor. The recommendation was accepted by the Minister and a certificate of registration was issued 22 May 1986 for the year 1 April 1986 to 31 March 1987.

9. While it is not directly relevant it is worth noting that on 24 November 1986, Mr. J. A. Denton on behalf of C.T.I. applied for registration of a new course, Hospitality Service, a resident course of 730 hours of instruction, daily from 9:00 a.m. to 3:00 p.m. lasting 28 weeks, 6 months, with a work program of 2 weeks (80 hours) at the end of the course, with fees of $2195.00 and books costing $155.00. Information required by the department was filed, it was reviewed and Mr. Denton was advised by letter of 17 December 1986 from an officer of the department that permission was given for the inclusion of this program in the course offerings of C.T.I. It was noted in the letter that this and the Introduction to Hospitality and Tourism Management program utilized the same practical training area and that total enrollments of these two courses should be restricted to a number that the area would allow while providing sufficient practical training. Though the proposed course was approved, C.T.I. did not offer the course.

2. Planning, Recruitment of Students and Commencement of the Course

10. After C.T.I. and its course Introduction to Hospitality and Tourism Management were registered planning for the course continued. The instructor named for the course, about whom information had been provided by C.T.I. as required by the department, indicated in conversation with the Ombudsman in July of 1987 that he had been involved in planning for the course and in developing those plans for more than a year at that stage, and had worked quite intensively on this following registration of the course.

11. During the summer of 1986, prior to commencement of the course, Mr. Denton arranged for new space for the course to be offered by C.T.I. and for courses offered by another private business college of which he was also principal director.

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12. Following registration of the course by the department C.T.I. took steps to make the course known and to recruit students. Although in the application for registration an enrollment of 50 students had been specified and that application was approved, those concerned with C.T.I. understood for their own planning purposes that enrollment would be on a student:teacher ratio of 25:1 and initial plans were for one class of 25 students. Success in marketing and promotion of the program led C.T.I. to accept more than originally planned. Minimum academic qualifications for admission were stated to be "a grade 12 diploma or equivalent certificate recognized by the provincial government". Students were enrolled with a range of educational backgrounds from some mature students without high school completion to others who had already completed post-secondary programs including degrees. Applicants were urged to visit the school for a personal interview. At least some who did so during the summer of 1986 were advised of the limited enrollment of 25 students planned, that the course was virtually full and that if they wished to enroll they should do so without delay. Some former students refer to this preliminary interview and to subsequent discussions with staff as the basis for their expectations about an emphasis on management training in the course and about reasonable employment opportunities following its completion. A one page information sheet provided to interested applicants suggested that for those with financial concerns Student Aid was available to those who qualified under federal and provincial government programs.

13. Registration for the course was completed by the students signing a registration agreement or contract which provided for payment of fees including book fees for the course. The form agreement provided for payment of at least ten per cent on signing of that agreement, for retention of ten per cent of the fees should the student withdraw before commencement of the course, that following commencement of the course full fees were due and payable (though arrangements might be made to pay them over time), and that the entire fee was "non-refundable" upon commencement of the course and where a student withdrew prior to its completion and had not paid in full the balance of fees was due immediately.

14. Success in marketing and promotion of the course led C.T.I. to accept more students than originally planned, and a total of 59 students were registered in anticipation of some attrition through the year. With the number of students enrolled increasing beyond the 25 originally planned for a single class C.T.I. made arrangements to retain a second instructor for the course. (There appears to be no record in the department of information filed about the second instructor in the course until after requests from the department in the spring of 1987 following application by C.T.I. for renewal of registration of the course for 1987-88. Representatives of C.T.I. indicate that their records show that the second instructor in the course was registered with the department in September.) With a second instructor retained arrangements were made to divide the group of students into two classes for most purposes. Classes in the course commenced early in September 1986.

3. Expressions of Student Dissatisfaction

15. There were no expressions of dissatisfaction by students brought to the attention of the department during the fall term from September to December.

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16. Early in January 1987 one student, purporting to speak to issues of general concern to a number of students, telephoned an officer of the department and expressed criticism of the course. The officer concerned noted that the student had not brought criticisms to the attention of those responsible for C.T.I.and was advised to do that, to call the department again if that did not lead to satisfactory response, and that the student did not call back. The student involved reports that in addition to telephoning, a meeting with the department officer was held and that this was done only after suggestions and criticisms intended to improve the course had been expressed to one of the instructors and to Mr. Denton to no avail. The student understood from the conversation that if the concerns were widely shared others might join in collective representations to C.T.I. and if that did not lead to satisfactory response the department should be further advised.

17. The fact that a complaint had been made to the department and the general nature of the concerns was communicated to the Registrar of C.T.I. and in turn communicated to Mr. Denton and the instructors in the program. Instructors were already planning personal interviews of students early in January and efforts were made in these interviews to probe student concerns about the course. Students' comments were solicited both about the course and about their expectations for employment. A number of comments made by students were favourable and were supportive of the course. Those responsible for C.T.I. believe no serious specific criticisms of the course were then forthcoming and that every effort was made to meet such minor criticisms as did emerge.

18. No further word of student dissatisfaction reached the department until April. In the meantime the department wrote to C.T.I. at the end of January to remind it of the need to register and to complete forms for this purpose for the year commencing April 1st, 1987. In mid-March an application for a certificate of registration as a trade school was received from C.T.I. relating to the two programs, Introduction to Hospitality Management and Hospitality Service. It was then that the department requested completion of a form relating to the second instructor involved in the course Introduction to Hospitality and Tourism Management who had been retained prior to the course commencing in September of 1986. That information was provided and processing of the application was commenced.

19. On March 30th one of the instructors in the school was advised by telephone by a student that a letter of complaints about the course was circulating for signatures among students. The instructor initiated discussion of student concerns in class on April 1 and arrangements were initiated by C.T.I. for a general meeting with students on April 3rd. A letter signed by some 32 students dated April 1st addressed and delivered to C.T.I. for the attention of Mr. Denton requested a meeting with him to discuss student concerns which were briefly outlined. In the main these related to discrepancies perceived in the courses as given when compared with descriptions in C.T.I.'s brochure. The meeting previously arranged by the Registrar for the afternoon of April 3rd proceeded and the concerns of students were discussed with some 18 students (including a few who had not signed the letter) and one parent in attendance. It was agreed that the students would write again to specify the major concerns discussed at the meeting and that the school would seek to address these without delay. This was the first occasion on which some students as a group had directly expressed serious concerns about the program to those responsible for the school.

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20. On April 1st an officer of the department was advised by telephone by a student that a substantial number were dissatisfied with the program, with arrangements apparently being discussed for it, and with qualifications of at least one of the instructors. That officer of the department was also advised within the next week that four dissatisfied students had discussed the program with an officer of the Department of Tourism and also had inquiries from representatives of the media and from the offices of one of the opposition parties. On April 3rd a question about the course was raised in the House of Assembly by an opposition member, and on April 9 a request for information about the department's authorization of the program was made in the House by another opposition member. The matter of student concerns was also discussed in question period or in debate in the House on May 7th, 11th, 15th, 19th and 20th.

21. Early in April the Registrar of C.T.I. reported by phone to the officer concerned in the department about the meeting on April 3rd and advised that the school was making every effort to meet the concerns expressed by students. On April 13th some of the students who had earlier met with the Registrar wrote a further letter to Mr. Denton of C.T.I., and reviewed in a summary way the principal matters addressed and action to be taken from the meeting on April 3rd. C.T.I. did undertake measures to address these concerns: additional computers were made available and access to them was provided for students interested during lunchtime and at the conclusion of classes (though very few students took advantage of the additional access time); a computer applications course which originally had been planned for late in the year was confirmed; efforts were initiated to review the curriculum and concerns about practical experience; and marks to date were provided to students. At the end of April the Registrar of the school met with the officer concerned in the department, reported more fully on the meeting of April 3rd, on the letter of April 13th and on the efforts of C.T.I. to address the concerns expressed by students. At that stage he reported that of the original students in the class five had apparently notified their withdrawal, another four or five had apparently dropped out and 49 were left as students in the school.

22. On May 5th a number of students arranged to meet with officers of the department to express their concerns and a letter, dated that day, addressed to the Minister and signed by eleven students was presented with an attachment of five pages dealing with "misleading information concerning the course, course curriculum concerns, instructors' professionalism, and resolutions". Much of the concern about the course related to alleged differences between the course described in C.T.I.'s brochure and the course as taught. Later that same day officers of the department met with eight of the same students, and with Mr. Denton, the Registrar and three instructors involved in the course. At that time a letter was delivered by Mr. Denton, addressed to an officer of the department, signed by 21 students, dated May 5th, which expressed support for the program and concern about actions taken by other students who in their view did not represent students as a whole at C.T.I. At this later meeting it was decided that those responsible for C.T.I. would discuss with students, in a meeting to be attended by an officer of the department, where they were in relation to the course as outlined and the plans for completion of the program, that representatives of the department would visit the school and report on the course as information to be considered in assessing C.T.I.'s application for registration for 1987-88, and that officers of the department would meet with representatives of the students who were supportive of the program.

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23. On May 7th officers of the department met with some of the students who had signed the letter of May 5th supportive of the school. On the same day Mr. Denton wrote to the Minister responding to student concerns expressed in the letter of May 5th to the Minister from students who had complained about the course, reviewing the efforts which the school had made to address the concerns that had previously been brought to its attention, both following the report of the single complaint to the department early in January and in dealing with matters raised in the student letter of April 1st, the only previous occasion when collective concerns of students had been directed to C.T.I. C.T.I. representatives believe that the weight ultimately given to student criticisms was inappropriate for among the critics, including the eight who were joined in the afternoon meeting of May 5th, many had significant absences from classes in recent weeks and could not fairly assess what course coverage had been accomplished. Others critical of the course had withdrawn and could not fairly judge the course. Subsequently on May 8th the Registrar wrote to the officer of the department concerned enclosing a notice that had been posted indicating willingness to extend the course by one month for additional practice and review time for students who wished this and advising that examinations would be held on the days originally scheduled in July, or for those who wished additional time exams would be held at a later date. No students expressed any interest in extended time for studies or in postponing examinations.

24. From early May until conclusion of the course in mid-July morale among students continuing in the program was reportedly low. Attendance, according to some students, was generally low and sporadic on the part of many. Some wrote to advise of withdrawal from the program and among them some requested a refund of fees paid.

25. Further representations were received by the Minister and the department through May and June by or on behalf of students criticising or supporting the course. After the Minister's announcement in mid-July that C.T.I. would not be registered for 1987-88 further representations were received critical of that decision, or seeking refunds whether or not the student concerned had successfully completed the course. Through the fall of 1987 representations were received about refunds of fees and cancellation of student loans negotiated by those who had been enrolled as students at C.T.I.

4. Review of the program by the department.

26. Following the meeting of May 5th the department appointed a committee of four persons to review the course. There was no effective consultation with C.T.I. about membership on this committee; members were drawn from the department and those associated with it and from industry; representatives of C.T.I. contend that they were not satisfied with the composition of the group. The committee, known as the Fact Finding Committee on the Canadian Tourism Institute, visited the premises of C.T.I. on three occasions:

- on May 21st to meet with Mr. Denton and to tour the facilities with two of the instructors,
- on June 2nd, to distribute and have completed by the 23 students then present a questionnaire that had been prepared by the Committee with external assistance, and to interview eight students,
- on June 10th to meet collectively and individually with "the administration" and instructors.

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27. Of the students interviewed on June 2nd, five were invited at random by the Committee to meet with them and three others asked to meet with the Committee. Perhaps not surprisingly students interviewed were not unanimous, some were positive about the course, some were negative and some noted both good aspects and others which needed improvement.

28. Following the meeting on June 2nd, because only 23 students were then present, the questionnaire was sent, apparently to virtually all students who had begun the course including those who had formally withdrawn at any time from the late fall 1986, and twenty completed questionnaires were received from the 35 or 36 students to whom it was sent. On June 4th, by a press release the Minister announced the existence of the Committee, commented on the progress that it was making and that it was sending questionnaires to those who had not been present at C.T.I. on June 2nd, acknowledged that in addition to complaints there were students who were supportive of the course and stated that pending receipt of the Committee's report the department was keeping an open mind on the matter.

29. In developing its questionnaire the Committee did not discuss the matter with C.T.I. and representatives of C.T.I. are critical of the questionnaire process used on several grounds; it was not discussed with them in advance; it was apparently sent to all who had embarked on the course including those who had withdrawn some months earlier and who would not be in a position to judge the course as a whole, and since the questionnaire was returned anonymously there was no means to assess the weight to be given to responses in light of the student respondent's evidence of interest through attendance and performance in the course. Further in the view of C.T.I. representatives, administering the questionnaire at the beginning of June with more than a month left in the course, could not fairly assess the course as a whole.

30. After return of 20 additional completed questionnaires the results were compiled (i.e., a total of 43 responses). Without further discussion with C.T.I. the Committee's report was completed and submitted to the department late in June. Representatives of C.T.I. had requested both before it was completed and after that a copy of the Committee's report, and information on the compilation from questionnaires be made available to them. That has not been done, rather the department has considered the report including the compilation from questionnaires to be an internal report, not to be released.

31. No action was taken on receipt of the report until mid-July after the conclusion of the course.

5. Conclusion of the course.

32. On July 13th thirty-six students wrote the final examination for the course and 33 of these passed and ultimately were awarded diplomas, some with honours standing, by C.T.I. Most of those who completed the course successfully, except for any who chose not to do so, were placed in local establishments to begin on July 16th a two week practicum for which reports were to be returned to C.T.I. to complete the student's records.

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6. Action by the department.

33. On July 17th the Minister announced decisions concerning C.T.I. by a news release which was subsequently sent that day under a covering letter to C.T.I. In essence the Minister's announcement was

- that C.T.I.'s registration for 1987-88 to conduct its "Introduction to Hospitality Management" course would not be renewed and its application for Hospitality Services training was under review;
- that this step was taken as a result of the review of C.T.I.'s operations by the Fact Finding Committee which had reported that,

"1. Student expectations about the course and their job prospects after graduation, raised by the Institute's advertising materials, could not reasonably be met.
2. Course content and quality of instruction were not as advertised.
3. Access to computer equipment was insufficient to enable students to become familiar with it.
4. Lack of management involvement in the development, planning and monitoring of the program contributed to the problems experienced."

Further, the Minister's statement indicated the Committee had found that most of the deficiencies identified were due to the Institute's attempt "to do too much in too little time"; that the program was originally designed for 25 students and aggressive marketing resulted in 59 students being enrolled, with inadequate provisions made to accommodate the increase; that curriculum and textbooks submitted for the department's approval were not being used in all cases.

The Minister noted that as "students had made the administration... aware of their dissatisfaction and concerns early in the program it was unfortunate that the Institute chose not to deal with the issue itself at an early stage".

34. The Minister's statement concluded: "My immediate concern is the students who, in effect, did not get their money's worth out of the program. I have, therefore, requested the Institute to satisfy the department that it has made satisfactory arrangements with its students in regards to tuition refunds."

35. In his letter of July 17th to C.T.I. the Minister included requirements to be addressed to have the course re-considered for registration (presumably for offering after 1987-88). Representatives of C.T.I. were most distressed by the Minister's announcement and his letter. Mr. Denton wrote to the Minister to request review of the decision not to register the course for 1987-88. He pointed out that C.T.I. had not expected the review process to lead to such drastic results and had anticipated that process would lead to consideration of steps to be taken to improve the program, steps which C.T.I. was still prepared to discuss and, if possible, to implement. C.T.I. representatives believe that the process followed in review of the program was unfair. They dispute the conclusions reached by the Fact Finding Committee after only preliminary discussion with them. They contend that course curriculum and the brochure on which the students relied had been approved by the department and that differences between the course as described and as delivered were minimal. They also stress that many of the students were supportive of the program and that a number of graduates did find employment opportunities in the hospitality/tourism industry.

36. The effects of the Minister's announcement were to leave C.T.I. distressed by the outcome and concerned as a result of the impact upon the reputation and standing not only of C.T.I. but also of an associated institution operated by the same principals to which reference had also been made in the Minister's statement. The effects also left a lot of unhappy students, particularly those who had in fact supported and completed the course successfully at an Institute whose name and program had now been publicly condemned. They as well as students who had been critical, including many who had withdrawn, sought refund of their fees. Students interpreted the Minister's statement as directing refund of fees to students enrolled in 1986-87. At the time the Minister had no authority in law to make any such direction for though the Trade Schools Regulation Act was amended in 1987 to include authority for the Governor in Council to make regulations prescribing a tuition refund policy for trade schools there were in July no such regulations made.

7. Process of Review of Student Claims to refund of fees.

37. After discussions initiated by the department in August C.T.I. instituted arrangements to review claims for refunds of fees by former students. (Each of them had signed a form contract at the time of registration that stipulated full fees were due and payable for students enrolled after commencement of the course and in the event of withdrawal from the program no refund of fees would be made and any outstanding unpaid balance was due and payable.) The review process provided for establishment of a committee appointed by C.T.I., with advice from the department about persons who would be asked to serve as members, to assess each claim on the following criteria:

"a) Attendance of the claimant, as to how much time was missed of their program, up to the time of withdrawal (if applicable in that the claimant did withdraw.)
b) Date in the program upon which the claimant made a specific complaint to the school, thereby notifying the school of their displeasure of the program, or any particular aspect of the program.
c) The evaluation of the above mentioned complaint, and the correction of said complaint by the school.
d) The success of the claimant in finding work in the Hospitality industry upon completion of the program.
e) The academic record of the claimant up to the point of their withdrawal from the program (if applicable) to ensure that the school is not being financially penalized for the student's personal failure to apply him or herself to his or her studies."

By letter the department advised that the procedure and criteria were found acceptable but an interest would be retained in the results. In a press release of August 28th the Minister announced that a procedure had been worked out to ensure proper consideration of refund claims, a procedure established by the Institute, with each reimbursement claim to be individually evaluated to ensure quality and fairness. The statement added that the department would carefully monitor the situation to ensure the procedure was implemented and followed and that the students were treated fairly.

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38. There were subsequent discussions between C.T.I. and the department about the composition of the review committee and these led to the appointment in September of three persons, all lawyers, one of whom in the fall of 1987 was also a part-time instructor in programs offered by the other trade school in which Mr. Denton was principal director, and the others having no association with C.T.I. or the other school. This committee received its information from C.T.I. and did not have direct contact with any of the former students. As the committee began its work a letter was written by Mr. Denton to former students informing them of the appointment of the committee, the criteria which had been developed in consultation with the department and asking any who wished to send information for the committee's consideration to write to Mr. Denton who would ensure that any response received would be forwarded to the committee. Representatives of C.T.I. advise that this letter, individually addressed, was sent to every student who had contacted the school and made a claim for a refund of tuition. Apparently it was received by some former students but other former students, including some who had formally withdrawn in May or June and had then requested a refund did not receive the letter.

39. The committee considered the cases of 29 students who had requested refund of fees. It reported to Mr. Denton on November 12th, noting that "in the course of reviewing each application the committee applied the criteria approved by the Department of Vocational and Technical Training...", that "the Committee has given careful consideration to each application for a tuition refund but has concluded that in no case is a refund justified". The committee attached a list of applications considered by it (the names of 29 former students were listed). It did not provide with its report an assessment of each individual claim in light of the criteria, and it indicated its understanding that its "decisions" would be communicated by either C.T.I. or the department or both to the applicants individually.

8. Legal Action by Students.

40. A number of former students consulted lawyers who communicated on their behalf with C.T.I. seeking refunds of fees paid. One former student has proceeded against C.T.I. through the Small Claims Court and in January 1988 was awarded judgment in an amount of $2,000.00, a sum reduced from the amount claimed on the ground that some benefit was received from the course "albeit that it was not as great as expected money wise upon completion of the Hospitality program".

41. A defence filed in the action was withdrawn and the suit was ultimately undefended. C.T.I. has apparently gone out of business, and has no assets, and the costs of defending the suit in the name of the Institute were not deemed warranted by Mr. Denton.

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9. Some Miscellaneous Considerations.

42. There are a number of miscellaneous factors not directly relevant but which may help to illuminate circumstances surrounding this story with an unhappy ending. In brief, these include the following:

a) The course was new and the difficulties arose and students' assessments were made before it had been completed for the first time.

b) The department was newly organized with elements of the departments of Education and Labour having been brought together as the Department of Vocational and Technical Training in April 1986. While the Trade Schools Regulation Act was not new it had in the past been related to trade schools and programs concerned in the main with traditionally recognized trades. There does not appear to have been an established process for review of a registered course when student criticism was voiced to the department while the course was in progress. The review process for C.T.I. was established without substantial precedent and without discussion with C.T.I.

c) Through federal job creation programs an increased emphasis has been given in recent years to educational and training programs in the private sector, encouraging opportunities for establishment of private schools and programs with perhaps too little co-ordination with provincial authorities on issues concerning standards and evaluation for such programs. It is worth note that some of the former students enrolled in the C.T.I. course in Introduction to Hospitality and Tourism Management were encouraged to consider the course by Employment Counsellors in federal Employment offices. Some students were supported while they continued in the course through a program of Unemployment Insurance support for those enrolled in a course classed as one training for job opportunities in an industry where it was perceived there was a shortage of qualified applicants.

d) Since concerns of some students about the course first became public a number of steps have been taken by the department in relation to private trade schools, including amendments to the legislation and regulations to require an acceptable policy for refund of fees, the posting of a substantial surety bond in favour of the department as an assurance of performance, and institution of more thorough evaluation processes for courses whether proposed as new or for renewed registration.

e) Registration of a trade school and its programs is an essential condition for students registered in such programs to be considered for student aid if otherwise eligible under federal and provincial programs for loans and bursaries. Of 59 students originally enrolled in the Introduction to Hospitality and Tourism Management course 46 were recipients of student aid. Those who received Canada Student Loans have been notified that initial installments for repayment are now overdue. Federal authorities have indicated to the department that there is no provision for general relief from loan repayments which under the Canada Student Loan program are owed to financial institutions.

f) By letter from Mr. Denton students who had claimed a refund of fees from C.T.I., at least those who had done so after the course was concluded, were informed of the process established by C.T.I. for consideration of applications for refund of fees. The number who might now seek recovery if funds were available for that purpose is uncertain.

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Part II

C. Conclusions and Recommendations

43. The Ombudsman Act provides in section 11 that, except for certain matters, the Ombudsman may investigate the administration by a department or officer thereof, of any law of the Province. Section 20(1) provides in part that

> ...where upon investigation the Ombudsman is of the opinion that a grievance exists or may exist because a department... administered... a law of the Province... a) unreasonably... and if the Ombudsman is of the opinion that
> ...a practice by reason of which the grievance arose or may arise should be altered; or
> ...other steps should be taken as he may advise,
>
> the Ombudsman shall report his opinion, his reasons therefor and any recommendation to the Minister and the chief officer of the department...

In essence the Ombudsman's jurisdiction concerns a review of procedures followed in departmental action, not the merits of decisions. In light of this responsibility the grievances on behalf of students and of Canadian Tourism Institute are dealt with in turn and recommendations are made.

The grievances of students

44. Student grievances were originally of two kinds. Some students were disillusioned with or discouraged and did not complete the course, some withdrew formally and requested refund of fees paid to C.T.I. Their grievances were primarily with C.T.I., a matter of contract in which the department was not directly involved at least initially. Others, the majority of students enrolled, completed the course and among them were a number who were supporters of it. Those who supported and completed the course were aggrieved by the Minister's decision which publicly condemned the course and dashed their hopes for a diploma from a school registered by the province which would lead to some recognition for their training.

45. In this case students had enrolled in good faith in a course registered in accordance with the Trade Schools Regulation Act and that course was publicly condemned by the department which had registered it. In hindsight the process followed in assessment of the course originally presented for registration in May 1986 was less than thorough. Whatever may be perceived as the responsibility of the department in registering a course it was at least an acceptance by the department and an assurance to others that the course met minimum standards of the department. That acceptance and assurance were in effect withdrawn retroactively after the course was concluded. While the department cannot be a guarantor of absolute quality in programs that are registered, implicidly it must accept some responsibility, morally if not in law, to those who in good faith rely upon registration as an assurance of minimum standards. In a situation where the effect of the department's action is to retroactively withdraw registration and the assurance of minimum standards after others have relied upon them, recognition of a responsibility on the part of the department to those adversely affected would be consistent with modern standards of fairness in administrative process.

...14.

46. In relation to students that responsibility was clearly recognized by the Minister and the department since they became involved in review of the course in May 1987. In discussion in the House of Assembly in May the Minister stressed that if the course was found wanting those enrolled in 1986-87 would be assisted to complete a reasonably comparable program through arrangements that would be made by the department. Review of the course took longer than anticipated and by the time decisions were made C.T.I.'s course had ended, except for practical training in local establishments. Thereafter, the Minister and the department did maintain their interest in the establishment of a process for review of requests for refunds, did accept the criteria on which such requests would be reviewed and were involved in discussions leading to decisions about persons who might serve on the review committee. While in hindsight one might question the criteria, and aspects of the process followed in the review if all former students were not advised of the committee and given the opportunity to make representations even in writing, the process was agreed upon and the committee discharged its task, finding in the result that not one of the 29 students whose requests for refunds were considered met the accepted criteria for a refund.

47. Many students, whether or not they completed the course, relied on the Minister's public statement that the department would be concerned to have C.T.I. establish a process to evaluate claims for refund of fees from students who, in the words of the Minister's statement, "did not get their money's worth" in 1986-87. It is not clear whether students who were dissatisfied and did not complete the course would be deemed to fall into such a group or whether students who did complete the course only to have it condemned publicly as inadequate almost immediately afterwards would be so deemed. At the time there was no lawful authority for the department to order or to insist upon refund of fees, a matter subject to contract between the students and C.T.I. Yet the announcement by the Minister in mid-July held out to students the prospect that fees, at least in some cases, could be repaid and that the department would ensure this.

48. In the opinion of the Ombudsman, in the administration of the Trade Schools Regulation Act it was unreasonable to publicly hold out to students, in July 1987 when there was no express authority to do so, that the department would ensure a process for evaluating claims by students for refund of fees. However, by its public stance and by its continuing arrangements with C.T.I. to establish a process for considering refunds the department implicidly recognized an obligation to students who had relied upon departmental registration of the course which, in effect, was withdrawn retroactively. While there may be no obligation in law it would be unfair for this responsiblilty to be denied.

...15.

49. Recognition of this responsibility to students in this case would be fair in another sense for it would place them in essentially the same position as students enrolled in trade school programs today. Arrangements for registration of trade schools have been changed. In 1987 the Act was amended to authorize the Governor in Council to provide by regulation for an acceptable policy for refund of tuition fees by trade schools to students and regulations so providing have been adopted. In addition, requirements for a surety bond to ensure performance of obligations by trade schools, including obligations relating to refund of fees, have been changed and a bond in substantially increased amounts is now deposited with the Minister. Finally, more thorough assessment of courses proposed, at the time of application for registration or re-application, has been initiated in the department. These arrangements are intended to ensure that students now have reasonable assurance of performance of their responsibilities by trade schools and the department is in a position to insist upon this. Thus it is unlikely that students will again be in the position of those enrolled at C.T.I.

50. After investigation of the grievances of certain students, and the circumstances relating to C.T.I. in the context of concerns of former students as requested by the Minister of Advanced Education and Job Training, the Ombudsman recommends as follows.

I. *In relation to all students enrolled at any time in the Introduction to Hospitality and Tourism Management course offered in 1986-87 by the Canadian Tourism Institute*

a) the department seek to arrange for all students who are interested a program of studies that would provide training for the Hospitality and Tourism industry reasonably comparable to that which students sought through C.T.I., with appropriate advanced standing for work already completed and in a program that would lead upon successful completion to a certificate or diploma within the community college system now being established in the province, and

b) the Minister seek approval to arrange on an ex gratia basis to pay to any student who is unable or not prepared to undertake a program of studies (assuming one can be arranged) and who makes formal application an amount equivalent to tuition fees (excluding book fees) actually paid to C.T.I. on condition

(i) that C.T.I or its successors in interest agree to assign to the department all claims against students for any outstanding tuition fees not yet paid and provide to the department an audited statement of account of all tuition fees paid by each student enrolled, and

(ii) that any student undertaking further studies as may be arranged by the department or applying for an ex gratia payment assign to the department any claim against C.T.I. for recovery of tuition fees.

This would mean, assuming the arrangements recommended can be effected, that former students would have the option to complete a program of studies at no cost to them for tuition or to claim an ex gratia payment equivalent to tuition fees paid to C.T.I.

...16.

The grievance of Canadian Tourism Institute

51. This grievance relates to the process followed in the departmental review and the subsequent decision by the then Minister concerning the Introduction to Hospitality and Tourism Management course. That course had been registered in May 1986 for the year ending March 31, 1987, and C.T.I. was registered as a trade school for the same term. Although C.T.I. had applied for re-registration for the 1987-88 year no decision was made on the application until July 1987 when the Minister announced the course would not be registered for 1987-88 and he advised Mr. Denton by letter the department would have to be satisfied of certain requirements before it would be registered again. In the interim, between April and July, C.T.I. had continued to operate, concluding the course in question, but without formal registration. While at the time of the Minister's announcement the only issue outstanding for decision was about registration for 1987-88, the effect of his decision, which was based on inadequacies reportedly found by the Fact Finding Committee, was to withdraw formal recognition, granted through registration, for the course as offered in 1986-87. Implicitly, had registration been in effect in July 1987, the Minister's decision would have resulted in its cancellation. When there was no response to the request by Mr. Denton, following the Minister's announcement, that the decision be reviewed, C.T.I. effectively ceased operations.

52. Assessing any educational program is difficult. It is particularly difficult where those enrolled in a course have mixed views about its value to them and their assessment is made before the course is completed. The fact that a significant number of students who were initially interested in the course took the unusual step of complaining publicly in this case was at least evidence that for those students the course left significant room for improvement. It seems obvious that C.T.I. had not managed to develop effective communications between students collectively and those responsible for the course.

53. In light of the difficult circumstances assessing the course fairly required careful consideration of procedures to find facts and to reach judgments. Recognition of the difficulties of assessing merits in this situation led to the appointment of a special committee to review the program. However, the process followed in the departmental review of the course did not meet modern standards of administrative fairness evolving in judicial decisions. In particular,

a) There was inadequate notice to C.T.I. that the review could result in a decision that in effect publicly condemned the 1986-87 course, as well as influencing the outcome of the application for registration for 1987-88. Yet that result was implicit in the Minister's decision and in referring to continuing concern of the department for an appropriate process for considering refund of fees to students registered in 1986-87 who the Minister's statement said "did not get their money's worth out of the program".

...17.

b) The Fact Finding Committee, established apparently in the absence of a settled process for review of registered courses, was constituted and its process carried out without consultation with or advice to C.T.I. about that process. In its process it reviewed written materials, the primary ones being the course curriculum and the brochure provided for students without sufficient recognition, in the view of C.T.I. representatives, that these had in fact been approved by the department at the time registration for the course had been granted . The Committee did view the premises and it did, early in its deliberations, interview instructors and Mr. Denton, and it did interview eight individual students whose general views on the program were mixed. It relied on a questionnaire administered to students present on June 2nd or who responded when it was mailed to all others enrolled at any time in the course without regard for how long the respondent may have continued in the course. In development of the questionnaire and in planning for its use there was no consultation with C.T.I. The Committee reached its conclusions about facts and its assessment of the program without opportunity to C.T.I. representatives to question or to be advised of, preliminary findings of fact.

c) The failure to provide to C.T.I. a copy of the Fact Finding Committee's report and the assessment of student responses to the questionnaire, despite requests before and after the Minister's announcement, left C.T.I. without adequate understanding of the bases of the findings stated by the Minister, which findings C.T.I. dispute. If a process of review is to be accepted, whether or not those concerned agree with its outcome, that process should result in a report which is made available to parties whose interests are directly affected by the report.

54. For these reasons it is the Ombudsman's opinion that the process followed in the review and decisions concerning the course was unreasonable in the administration of the Trade Schools Regulation Act. If the process followed does not meet modern standards of fairness in administrative decision making it is not a reasonable process.

55. Having reached this opinion, it is appropriate to emphasize that it relates to procedures and that this investigation has not considered or reviewed either the merits of the course offered by C.T.I. or the decisions of the department. It is also appropriate to record that in the course of this investigation the perceptions of many of those involved have reflected a lack of understanding of the actions of others, but the Ombudsman has seen no evidence of bad faith on the part of any of those who have been interviewed. Students in making their concerns known were acting in their own interests, and those of fellow and possible future students, as they saw them. Representatives of C.T.I. believed that they had taken steps to address all legitimate student concerns that were brought to their attention and that the majority of students were supportive of the course. Those concerned in the department did act in good faith to protect the general public interest, the underlying principle of the Trade Schools Regulation Act.

...18.

56. Ultimately the public interest is protected by provisions of the Act which preclude operation of any trade school or home study course unless registration has been granted by the Minister in accord with the Act and "absolute discretion" to suspend or cancel registration is vested in the Minister. That discretion is important and the Minister has the responsibility to protect the public interest in every case where it is deemed a registered trade school or course does not meet the requirements established at the time it was registered. However, in reaching that assessment it is essential that fair procedures be followed. While the Minister and the department must be able to reach appropriate decisions expeditiously, in any instance where a decision affects interests already recognized by law, or by departmental action under the law, it is important that the process of fact finding be a fair one with adequate opportunity for the individual affected to question the evidence or assumptions on which facts are found. The Ombudsman is satisfied that there are means to ensure this without unduly prolonging or complicating the decision making process.

57. After investigation of the grievance of Mr. J. A. Denton on behalf of C.T.I. the Ombudsman recommends as follows.

II. *To facilitate any program of the Department of Advanced Education and Job Training to assume responsibility to students enrolled in the Introduction to Hospitality and Tourism Management course in 1986-87, C.T.I. or its successors in interest provide to the department an audited statement of account of all tuition fees paid by each student enrolled and assign to the department all claims against such students for any outstanding tuition fees not yet paid.*

III. *If those concerned with the Canadian Tourism Institute decide to reinstate arrangements for the Institute and the course offered in 1986-87, any application for registration be considered after discussions between them and the department concerning the requirements for re-registration as set out in the Minister's letter of July 17, 1987 and the existing requirements for registration prevailing at the time of application.*

Recommendation II is intended to facilitate recognition of responsibility by the department to students enrolled in 1986-87 and to foreclose any further claims for outstanding fees by C.T.I. against those students. Coincidental acceptance of Recommendation I by the Minister and government would result in assignment to the department of students claims against C.T.I. for repayment of tuition fees. Recommendation III would restore C.T.I. to the position it was in prior to the announcement by the Minister in mid-July, 1987, i.e. applying for re-registration of the course in Introduction to Hospitality and Tourism Management. That is the same position as would have resulted from a successful application by C.T.I. for judicial review to set aside the Minister's decision. Further discussions suggested ought to clarify the concerns of the department and the expectations of both the department and those concerned with C.T.I. If C.T.I. and its courses were registered again that would restore the name of the Institute and it would assist in redressing both a sense of grievance on the part of those concerned originally with C.T.I. and a sense of grievance on the part of successful students in 1986-87 arising from withdrawal of registration, and recognition, of the training program in which they participated. This would also be consistent with C.T.I.'s original purpose and with the intent of the Minister's letter of July 17th so far as that related to re-registration of the course.

...19.

58. After investigation, in view of the opinion that the procedures followed in review of the course offered in 1986-87 by C.T.I. and the decisions based on that review did not meet appropriate standards of fairness in administrative decision making, the Ombudsman further recommends that

IV. *The department consult with the department of the Attorney General with a view to establishing principles and procedures for review of registered trade schools or registered courses, particularly those about which complaints may be directed to the department, which will meet appropriate standards of fairness in administrative decision making.*

Respectfully submitted,

W. Andrew MacKay
Ombudsman